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§ 166.407 If a range unit consists of tribal and individually-owned Indian lands, what is the grazing rental rate?

The grazing rental rate for tribal land will be the rate set by the tribe. The grazing rental rate for individually-owned Indian land will be the grazing rental rate set by us.

§ 166.408 Is the grazing rental rate established by the BIA adjusted periodically?

Yes. To ensure that Indian landowners are receiving the fair annual return, we may adjust the grazing rental rate established by the BIA, based upon an appropriate valuation method, taking into account the value of improvements made under the permit, unless the permit provides otherwise, following the Uniform Standards of Professional Appraisal Practice.

(a) We will:

(1) Review the grazing rental rate prior to each anniversary date or when specified by the permit.

(2) Provide you with written notice of any adjustment of the grazing rental rate 60 days prior to each anniversary date.

(3) Allow the adjusted grazing rental rate to be less than the fair annual rental if we determine that such a rate is in the best interest of the Indian landowner.

(b) If adjusted, the grazing rental rate will become effective on the next anniversary date of the permit.

(c) These adjustments will be retroactive, if they are not made at the time specified in the permit.

(d) For permits granted by tribes, we will consult with the granting tribe to determine whether an adjustment of the grazing rental payment should be made. The permit must be modified to document the granting tribe's waiver of the adjustment. A tribe may grant a permit without providing for a rental adjustment, if the tribe establishes such a policy under § 166.100(a)(4) of this part and negotiates such a permit.

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RENTAL PAYMENTS

§ 166.409 How is my grazing rental payment determined?

The grazing rental payment is the total of the grazing rental rate multiplied by the number of AUMs or acres covered by the permit.

§ 166.410 When are grazing rental payments due?

The initial grazing rental payment is due and payable as specified in the permit or 15 days after the BIA approves the permit, whichever is later. Subsequent payments are due as specified in the permit.

§ 166.411 Will a permittee be notified when a grazing rental payment is due?

Each permit states the schedule of rental payments agreed to by the parties. We will issue an invoice to the permittee 30 to 60 days prior to the rental payment due date.

§ 166.412 What if the permittee does not receive an invoice that a grazing rental payment is due?

If we fail to send an invoice or if we send an invoice and the permittee does not receive it, the permittee is still responsible for making timely payment of all amounts due under the permit.

§ 166.413 To whom are grazing rental payments made?

(a) A permit must specify whether grazing rental payments will be made directly to the Indian landowners or to us on behalf of the Indian landowners. If the permit provides for payment to be made directly to the Indian landowners, the permit must also require that the permittee retain specific documentation evidencing proof of payment, such as canceled checks, cash receipt vouchers, or copies of money orders or cashier's checks, consistent with the provisions of §§ 166.1000 and 166.1001 of this part.

(b) Grazing rental payments made directly to the Indian landowners must be made to the parties specified in the permit, unless the permittee receives a notice of a change of ownership. Unless otherwise provided in the permit, grazing rental payments may not be made

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payable directly to anyone other than the Indian landowners.

(c) A permit which provides for grazing rental payments to be made directly to the Indian landowners must also provide for such payments to be suspended and rent thereafter paid to us, rather than directly to the Indian landowners, if:

- (1) An Indian landowner dies;
- (2) An Indian landowner requests that payment be made to us;
- (3) An Indian landowner is found by us to be in need of assistance in managing his/her financial affairs; or
- (4) We determine, in our discretion and after consultation with the Indian landowner(s), that direct payment should be discontinued.

§ 166.414 What forms of grazing rental payments are acceptable?

(a) When grazing rental payments are made directly to the Indian landowners, the form of payment must be acceptable to the Indian landowners.

(b) Payments made to us may be delivered in person or by mail. We will not accept cash, foreign currency, or third-party checks. We will accept:

- (1) Personal or business checks drawn on the account of the permittee;
- (2) Money orders;
- (3) Cashier's checks;
- (4) Certified checks; or
- (5) Electronic funds transfer payments.

§ 166.415 What will the BIA do if the permittee fails to make a direct payment to an Indian landowner?

Within five business days of the Indian landowner's notification to us that a payment has not been received, we will contact the permittee either in writing or by telephone requesting that the permittee provide documentation (e.g., canceled check, cash receipt voucher, copy of a money order or cashier's check) showing that payment has been made to the Indian landowner. If the permittee fails to provide such documentation, we will follow the procedures identified in § 166.419 of this part to collect the money on behalf of the Indian landowner or to cancel the permit.

§ 166.416 May a permittee make a grazing rental payment in advance of the due date?

Rent may be paid no more than 30 days in advance, unless otherwise specified in the permit.

§ 166.417 May an individual Indian landowner modify the terms of the permit on a fractionated tract for advance grazing rental payment?

No. An individual Indian landowner of a fractionated tract may not modify a permit to allow a grazing rental payment in advance of the due date specified in the initial approved permit.

§ 166.418 When is a grazing rental payment late?

A grazing rental payment is late if it is not received on or before the due date.

LATE RENTAL PAYMENT COLLECTIONS

§ 166.419 What will the BIA do if grazing rental payments are not made in the time and manner required by the permit?

(a) A permittee's failure to pay grazing rental payments in the time and manner required by a permit will be a violation of the permit, and a notice of violation will be issued under § 166.703 of this part. If the permit requires that grazing rental payments be made to us, we will send the permittee and its sureties a notice of violation within five business days of the date on which the grazing rental payment was due. If the permit provides for payment directly to the Indian landowner(s), we will send the permittee and its sureties a notice of violation within five business days of the date on which we receive actual notice of non-payment from the Indian landowner(s).

(b) If a permittee fails to provide adequate proof of payment or cure the violation within the requisite time period described in § 166.704 of this part, and the amount due is not in dispute, we may immediately take action to recover the amount of the unpaid rent and any associated interest charges or late payment penalties. We may also cancel the permit under § 166.705 of this part, or invoke any other remedies available under the permit or applicable law, including collection on any